

Chapter 14.16

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14.16.010 Definitions.

A. As used in this chapter:

1. “Annual plan” means a proposed

schedule with regard to the construction, maintenance or other similar activities planned by a proposed permittee within city limits for the then-current calendar year which is submitted to the city in writing on or before January 31st of such calendar year.

2. “Annual plan permittee” means a permittee who has filed with the city an approved annual plan; who is performing the work under the permit in accordance with such approved annual plan; and who is not otherwise in violation of any aspect of such approved annual plan.

3. “Applicant” means any person who makes application for a permit.

4. “Appurtenances” means miscellaneous concrete surfaces within the public way such as parking bays.

5. “Emergency” means any unforeseen circumstances or occurrence, the existence of which constitutes a clear and immediate danger to persons or property, or which causes interruption of utility or public services. “Emergency” shall include, without limitation, any war, general strike, earthquake, tornado, mudslide, avalanche or other Act of God. “Emergency” shall not include, without limitation, any economic or financial concern (such as, for example, any projected increase in labor or material costs) facing the permittee from time to time.

6. “Engineering design and construction standards” mean the standards set forth in the latest version of the city’s construction standards manual published by the city engineer.

7. “Failure” means a work site restoration which fails to meet engineering design and construction standards, or which results in a deteriorated or substandard condition within the duration of the warranty period. Failure may be settlement of surfaces, deterioration of materials, or other surface irregularities. Measurement of failure shall be further defined in the engineering design and construction standards.

8. “Permittee” means any person who has been issued a permit and thereby has agreed to

fulfill the requirements of this chapter.

9. "Pipe driveway" means a driveway approach which uses a pipe or other means to bridge the gutter.

10. "Property owner" means person or persons who have legal title to property and/or equitable interest in the property, or the ranking official or agent of a company having legal title to property and/or equitable interest in the property.

11. "Public utility company" means any company subject to the jurisdiction of the Utah State Public Service Commission, or any business entity providing gas, electricity, water, telephone, communication or other utility product or services for use by the general public.

12. "Public way" means and includes all public rights-of-way and easements, public footpaths, walkways and sidewalks, public streets, public roads, public highways, public alleys, and public drainage ways. It does not, however, include utility easements not within public ways of the city.

13. "Private drain line" means a pipe installed solely for the transmission of water collected or generated on private property such as drainage, spring, or storm water, or condensate into the public drainage system.

14. "Resident" means the person or persons currently making their home at a particular dwelling.

15. "Storm drain" means a dedicated pipe, conduit, waterway, or ditch installed in a right-of-way or easement for the transmission of storm and drainage water. This term does not include private drain lines.

16. "Traffic barricade manual" means the Manual of Uniform Traffic Control Devices ("MUTCD").

17. "Work site restoration" means and includes the restoring of the original ground or paved hard surface area to comply with engineering design and construction standards, and includes but is not limited to repair, cleanup, backfilling, compaction, stabilization, paving and other work necessary to place the site in

acceptable condition following the conclusion of the work, or the expiration or revocation of the permit.

14.16.015 Annual plan.

The annual plan will be used by the city to coordinate proposed excavation projects with the city's pending public works projects, construction/maintenance activities within city limits proposed by other proposed permittees, etc., in order to minimize disturbances to the citizenry and to protect the city's infrastructure investment. On or before February 25th of such year the city will either approve such annual plan or will provide the proposed permittee with any suggested revisions. The proposed permittee shall then have ten days to object to the city in writing to any such proposed revisions to the annual plan as originally filed with the city. If the proposed permittee so objects, then the city and such permittee shall cooperate to formulate a mutually-acceptable annual plan. The city acknowledges, however, (A) the legal obligation of certain public utility providers to provide service to new developments, and (B) that such a public utility may not have knowledge of proposed new developments in adequate time to include such work in the utility's annual plan for that calendar year. The failure by any such public utility provider to include such work in its annual plan shall not constitute a violation of its annual plan if the utility notifies the city immediately upon learning of the need to deliver its services to a new development.

14.16.020 Permit application requirements.

A. No public way of the city shall be dug up or excavated and no approach, road, driveway, pole, pipeline, conduit, sewer, ditch culvert, billboard, advertising sign, or other structure or object of any kind or character shall be placed, constructed or maintained within any such public way except as permitted by and in accordance with the city's ordinances and regulations.

B. Any person desiring to perform work of any kind in a public way within the city shall make application for a permit prior to beginning such work. Such application shall be filed with the department on a form or forms to be furnished by the city. Property owners and/or tenants for whom work is being done shall be responsible for obtaining the permits, provided, however, contractors may obtain the permit in the contractor's name.

C. No person shall be eligible to apply for or receive permits to do work within the public ways of the city, save and except the following:

1. Contractors licensed by the state as general contractors;
2. Public utility companies;
3. Property owners installing, replacing, or maintaining less than five hundred square feet or one hundred linear feet of sidewalk, curb, and gutter, or driveway approach, or other work approved by the department, upon a portion of the public way adjacent to their residence; or
4. Persons offering a service which requires occupation of the public way, such as scaffold or staging, staging of a crane, installation or maintenance of electric signs, glass, awnings, and painting or cleaning of buildings or sign boards or other structures.

D. The department may deny the issuance of permits to contractors, public utility companies, or other permit applicants who have shown by past performance that in the department's opinion will not consistently conform to the engineering design and construction standards or the requirements of this chapter.

E. When the department determines that it is necessary to fully determine the relationship of the work proposed to existing or proposed facilities within the public ways, or to determine whether the work proposed complies with the engineering design and construction standards, the city may require the filing of engineering plans, specifications and sketches showing the proposed work in suffi-

cient detail to permit determination of such relationship or compliance, or both, and the application shall be deemed suspended until such plans and sketches are filed and approved. The city shall endeavor to review and respond to the permittee concerning such plans and sketches within five business days after filing.

F. It shall be unlawful for any person to commence work upon any public way until the department has approved the application and until a permit has been issued for such work, except as specifically otherwise approved in this chapter.

G. The disapproval or denial of an application by the department may be appealed by the applicant to the city council or its designee by filing of a written notice of appeal within ten days of the date of the denial. The city council or its designee may hear such appeal, if written request therefor be timely filed as soon as practicable, and render its decision within a reasonable time following such appeal.

H. In approving or disapproving work within any public way, or permits therefor, in the inspection of such work; in reviewing plans, sketches or specifications; and generally in the exercise of the authority conferred hereunder, the department shall act in such manner as to preserve and protect the public way and the use thereof, but shall have no authority to govern the actions or inaction of permittees and applicants or other persons which have no relationship to the use, preservation or protection of the public way.

I. A permit is not required from the department for a city, county, state, federal, or other government employee to perform routine maintenance work, not involving excavations.

J. A permit is not required from the department for hand digging excavations for installation or repair of sprinkler systems and landscaping within the non-paved areas of the public way. However, conformance to the engineering design and construction standards is

required.

14.16.030 Emergency work.

A. Any person maintaining pipes, lines, or facilities in the public way may proceed with work upon existing facilities without a permit when emergency circumstances demand the work to be done immediately; provided a permit could not reasonably and practicably have been obtained beforehand.

B. In the event that emergency work is commenced on or within any public way of the city during regular business hours, the department shall be notified within one-half hour from the time the work is commenced. The person commencing and conducting such work shall take all necessary safety precautions for the protection of the public and the direction and control of traffic, and shall insure that work is accomplished according to the traffic barricade manual and other applicable laws, regulations, or generally recognized practices in the industry.

C. Any person commencing emergency work in the public way during other than business hours without a permit shall immediately thereafter apply for a permit or give notice during the first hour of the first regular business day on which city offices are open for business after such work is commenced. A permit for such emergency work may be issued which shall be retroactive to the date when the work was begun, at the discretion of the department.

14.16.040 Fees.

A. The city shall charge and the applicant shall pay with the application for a permit, a fee in the amount set forth in chart 14.16.040. The fees may be amended from time to time by the city council.

B. The city council may waive the fees or penalties or portion thereof provided for in this chapter, when it determines that such fee or penalty:

1. Pertains to construction or rehabilitation of housing for persons whose income is

below the median income level for the city; or

2. Pertains to an encroachment on the public way involving a beautification project which furthers specific goals and objectives set forth in the city's strategic plan, general plans, or other official documents, including decorative street lighting, building facade lighting, flower and planter boxes, and landscaping.

C. Additional charges to cover the reasonable cost and expenses of any required engineering review, inspection, and work site restoration associated with each undertaking may be charged by the city to each Applicant, in addition to the fee described above.

14.16.050 Permit—Contents—Duration and extensions.

A. Each permit application shall state the starting date and estimated completion date. Work shall be completed within thirty (30) days from the starting date or as directed by the department. The department shall be notified by the permittee of commencement of the work at least two business days prior to commencing work. The permit shall be valid for the time period specified in the permit.

B. If the work is not completed during such period, prior to the expiration of the permit, the permittee may apply to the department for an additional permit or an extension, which may be granted by the department for good cause shown.

C. The length of the extension requested by the permittee shall be subject to the approval of the department in its discretion.

14.16.060 Permit—No transfer or assignment.

Permits shall not be transferable or assignable, and work shall not be performed under a permit in any place other than that specified in the permit. Nothing herein contained shall prevent a permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the per-

formance of the work under the permit, and for all bonding, insurance and other requirements of this chapter and under said permit.

14.16.070 Compliance with specifications, standards, traffic-control regulations; site permittee identification.

A. The work performed in the public way shall conform to the requirements of the then-current (a) OSHA standards; (b) Salt Lake County "Standard Plans for Public Works Construction," the "City of Cottonwood Heights Road Cut Standards" or other applicable engineering design and construction standards from time to time adopted by the department; and (c) the city's traffic barricade manual, copies of which shall be available from the department.

B. Where a job site is left unattended, before completion of the work, signage with minimum two inch high letters shall be attached to a barricade or otherwise posted at the site, indicating the permittee's name, or company name, local telephone number of a responsible party, and after hours local telephone number of a responsible party.

C. All excavations shall be conducted in a manner resulting in a minimum amount of interference or interruption of street or pedestrian traffic. Inconvenience to residents and businesses fronting on the public way shall be minimized. Suitable, adequate and sufficient barricades and/or other structures will be available and used where necessary to prevent accidents involving property or persons. Barricades must be in place until all of the permittee's equipment is removed from the site and the excavation has been backfilled and proper temporary gravel surface is in place, except where backfilling and resurfacing is to be done by the city; in which case the barricades, together with any necessary lights, flares or reflective markers, must remain in place until the backfill work is actually commenced by the city. From sunset to sunrise, all barricades and excavations must be clearly outlined by

adequate signal lights, flares, reflective markers, etc. The permittee shall notify (a) the city's law enforcement services provider; (b) Utah Transit Authority; (c) every public school district operating a school within the city; (d) the U.S. Mail Service; (e) the city's public works service provider; and (f) the fire department, at least 24 hours in advance of any planned excavation requiring street closure or traffic detour.

14.16.080 Other highway permits.

A. Holders of permits for work on highways owned or under the jurisdiction of other government entities, but located within the city limits, shall not be required to obtain permits from the city under the provisions of this chapter, unless the work extends beyond the back side of the curb, or beyond any other designated jurisdictional boundary. Any city permit shall not be construed to permit or allow work on a county road or a state highway within the city without an applicable county or state permit.

B. The department shall have the right and authority to regulate work under permits issued by other governmental entities with respect to hours and days of work, and measures required to be taken by the permittee of said governmental entity for the protection of traffic and safety of persons and property. Notwithstanding the foregoing, nothing in this chapter shall be construed to impose any duty, implied or express, on the city or its employees, officers, agents or assigns, relative to the protection of traffic and safety of persons or property, arising out of the issuance of any permit issued by government entities other than the city, or arising out of any work performed on any public way owned or within the jurisdiction of the city.

14.16.090 Relocation of structures in public ways.

A. The department may direct any person owning or maintaining facilities or structures in the public way to alter, modify or relocate

such facilities or structures as the department may require. Sewers, pipes, drains, tunnels, conduits, pipe driveways, vaults, trash receptacles and overhead and underground gas, electric, telephone, telecommunication and communication facilities shall specifically be subject to such directives.

B. Any directive by the department shall be based upon the following:

1. The facility or structure was installed, erected or is being maintained contrary to law, or determined by the department to be structurally unsound or defective;

2. The facility or structure constitutes a nuisance as defined under state statute or city ordinance. (This section shall not, however, be deemed to diminish the vehicle impound authority of the city's police department);

3. The authority under which the facility or structure was installed has expired or has been revoked;

4. The facility or structure is not in conformity with public improvements proposed for the area; or

5. The public way is about to be repaired or improved and such facilities or structures may pose a hindrance to construction.

C. Any person owning or maintaining facilities or structures in the public way who fails to alter, modify or relocate such facilities or structures upon notice to do so by the department shall be guilty of a misdemeanor, and promptly shall perform such alterations, modifications or relocation. All costs of alteration, modification or relocation shall be borne by the person owning or maintaining the facilities or structures involved.

14.16.100 Impact of excavation on existing improvements.

A. If any sidewalk or curb ramp is blocked by excavation work, a temporary sidewalk or curb ramp shall be constructed or provided. Said temporary improvement shall be safe for travel and convenient for users, and consistent with applicable standards for such.

B. Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface until such time as the permanent repairs are completed.

C.1. At any time a permittee disturbs the yard, residence or the real or personal property of a private property owner or the city, such permittee shall insure that such property is returned, replaced and/or restored to a condition that is comparable to the condition that existed prior to the commencement of the work.

2. The costs associated with the disturbance and the return, replacement and/or restoration shall be borne by the permittee. Further, a permittee shall reimburse a property owner or the city, for any actual damage caused by the permittee, its subcontractor, or its independent contractor, in connection with the disturbance of such property. However, nothing in this subsection shall require the permittee to pay a subscriber or private property owner when that subscriber or private property owner requests that the permittee remove, replace or relocate improvements associated with the service provided by the permittee to the property owner and when the permittee exercises due care in the performance of that service, or when the subscriber or private property owner provided false information to the permittee on which the permittee relied to its detriment.

D. Examples of types of acts specifically included in this section are the following:

1. Removal of sod, lawn, shrubbery, flowers, trees, driveways, or fence, to install, trench, repair, replace, remove or locate equipment, sprinkler systems, cable or other appurtenances of the permittee;

2. Installation or removal of equipment or other appurtenances of the permittee's system within a private property owner's property or residence which requires drilling, excavating, plastering, or the like on the part of the permittee;

3. Temporarily relocating or moving a piece of personal property or a fixture of a pri-

vate property owner (such as a motor vehicle, fence, air conditioning, heating unit, or the like) in order to perform some sort of construction, maintenance or repair by the permittee; or

4. Permanently removing a permittee's equipment or other appurtenances due to the revocation, termination or non-renewal of the franchise (if applicable).

E. Existing drainage channels, such as gutters or ditches, shall be kept free of dirt or other debris so that natural flow will not be interrupted. When it is necessary to block or otherwise interrupt flow of the drainage channel, a method of rerouting the flow must be submitted for approval by the department prior to the blockage of the channel.

F. The requirements imposed upon the permittee extend to any subcontractor or independent contractor that the permittee might employ to perform the tasks pursuant to the permit.

G. The requirements of this section shall not apply to the removal by a permittee of a permanent structure placed by a property owner in a public way, unless such property owner has received prior written permission from the department granting the property owner the right to install a permanent structure on a public way, and such written permission has been recorded in the office of the county recorder.

H. No permit shall be granted to excavate any road or highway that has been resurfaced within two years prior to the date of the application for permit except in cases of emergency or as approved by the city council upon such terms and conditions as the city council deems appropriate and subject to section 14.16.110. The city shall make available upon request a schedule of the planned dates that roads in the city will be resurfaced.

I. Any permittee shall immediately notify the city of any emergency situations (including, without limitation, damages to pipes, lines or other underground apparatus of electrical, telephone, water or other utility service

providers) caused by or resulting from such permittee's activities on a public way.

J. Any permittee marking the asphalt or concrete surfaces of any public way shall, subject to any applicable Utah state law, (1) make such markings as unobtrusive as possible, and (2) use only paint or another marking material that disintegrates or otherwise is obliterated as soon as possible.

14.16.110 Restoration of public property.

A. The permittee and any other person making any excavation or tunnel in or under any public way shall, at its own expense, restore the surface of any public way to its original condition and replace any removed or damaged pavement with the same type and depth of pavement as that which is adjoining, including the gravel base material. Refills shall be properly tamped down, and any bracing in such tunnel or excavation shall be left in the ground. All restoration shall conform to the engineering design and construction standards and specifications required in this chapter or otherwise adopted by the department and shall be accomplished within the time limits set forth in the permit, unless additional time is granted in writing by the department. There shall be a penalty of \$150 per day for each day after the time limits set forth in the permit that restoration is not accomplished.

B. If, within the preceding two years, the pavement to be excavated has been (1) repaved with asphalt, then the permittee shall be responsible for replacing with three inches of asphalt the entire width of the excavated pavement from road edge to road edge and to a distance of five feet from each side of the excavation; or (2) resurfaced with slurry seal or chip seal, then, in addition to its other pavement restoration obligations under this chapter, the permittee shall be responsible for resurfacing the entire width of the pavement surrounding the excavation from road edge to road edge and to a distance of twenty-five feet from each side of the excavation.

C. The director of the department has au-

thority to suspend operations under excavation permits where, in his opinion based on standards from time to time adopted by the American Association of State Highway and Transportation Officials (AASHTO), climatic changes would prevent proper restoration of pavement surfaces.

D. If the permittee fails to restore the surface of any public right of way to its original condition in accordance with the standards required in this chapter, the department may authorize and employ the necessary assistance to restore the surface to its original condition. The permittee promptly shall pay all expenses incurred to restore the surface. The department shall prepare an itemized statement of all expenses incurred in such restoration and shall deliver a copy thereof to the permittee and/or the bondholder.

E. All work by a permittee to restore the surface of any public right of way to its original condition shall be deemed guaranteed by the permittee for a period of two years after such restoration is completed. If the city discovers defects in such restoration at any time within such guaranty period, then the city shall so notify the permittee and the permittee shall perform all necessary repairs within seven business days after its receipt of such notice of defects from the city. If the permittee fails to so act, then the department may authorize and employ the necessary assistance to restore the surface to the required condition. The department shall prepare an itemized statement of all expenses incurred in such restoration and shall deliver a copy thereof to the permittee. The permittee promptly shall pay all expenses incurred by the city to restore the surface.

14.16.120 Insurance requirements.

A. Before a permit is issued, the applicant shall furnish to the department evidence that such applicant has a comprehensive general liability and property damage policy that includes contractual liability coverage endorsed with the following limits and provisions:

1. A minimum of one million dollars combined single limit per occurrence for bodily injury, personal injury, and property damage and not less than one million dollars in the aggregate. The general aggregate limit shall apply separately to the permit, or the general aggregate limit shall be two times the required occurrence limit. The coverage shall be in the nature of broad form commercial general liability coverage. The city may increase or decrease minimum insurance limits, depending on the potential liability of any project.

2. All policies shall include the city, its employees, officers, officials, agents, volunteers and assigns, as insureds. Any reference to the "city" shall include the city, its employees, officers, officials, agents, volunteers and assigns.

3. The coverage shall be primary insurance as respects the city, its employees, officers, officials, agents, volunteers, and assigns. Any insurance or self-insurance maintained by the city, its employees, officers, officials, agents, volunteers, and assigns shall be in excess of the permittee's insurance and shall not contribute to or with it.

4. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the city, its employees, officers, officials, agents, volunteers, and assigns.

5. Coverage shall state that the permittee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6. Underwriters shall have no right of recovery or subrogation against the city, it being the intent of the parties that the insurance policy so affected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.

7. The insurance companies issuing the policy or policies shall have no recourse against the city for payment of any premiums due or for any assessments under any form of any policy.

8. Each insurance policy shall be en-

dorsed to state that the coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested sent to the city with a copy to the city attorney.

9. Each policy shall be endorsed to indemnify, save harmless and defend the city and its officers and employees against any claim or loss, damage or expense sustained on account of damages to persons or property occurring by reason of permit work done by the permittee, his/her subcontractor or agent, whether or not the work has been completed and whether or not the right-of-way has been opened to public travel.

10. Each policy shall be endorsed to indemnify, hold harmless and defend the city and its officers and employees against any claim or loss, damage or expense sustained by any person occurring by reason of doing any work pursuant to the permit including, but not limited to falling objects or failure to maintain proper barricades and/or lights as required from the time work begins until the work is completed and right-of-way is opened for public use.

B. Insurance is to be placed with insurers with an AM Best rating of no less than an A carrier, with a rating of "7" or higher.

C. The permittee shall furnish the department with certificates of insurance and original endorsements affecting coverage required by the permit. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The city expressly reserves the right to require complete, certified copies of all required insurance policies at any time. Consequently, the permittee shall be prepared to provide such copies prior to the issuance of the permit.

D. If any of the required policies are, or at any time become, unsatisfactory to the city as to form or substance, or if a company issuing any such policy is, or at any time becomes, unsatisfactory to the city, the permittee shall

promptly obtain a new policy, submit the same to the city for approval, and thereafter submit verification of coverage as required by the city. Upon failure to furnish, deliver and maintain such insurance as provided herein, the city may declare the permit to be in default and pursue any and all remedies the city may have at law or in equity, including those actions outlined in this chapter.

E. The permittee shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

F. Any deductibles or self-insured retentions shall be declared to and approved by the city. At the option of the city, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the city, its employees, officers, officials, agents, volunteers or assigns, or the permittee shall procure a bond, in a form acceptable to the city, guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

G. A property owner personally performing work adjacent to his residence may submit proof of a homeowner's insurance policy in lieu of the insurance requirements of this section.

H. A public utility company may be relieved of the obligation of submitting certificates of insurance if such company shall submit satisfactory evidence in advance that:

1. It is insured in the amounts set forth in this chapter, or has complied with state requirements to become self-insured. Public utilities may submit annually evidence of insurance coverage in lieu of individual submissions for each permit; and

2. Said coverage provides to the city the same scope of coverage that would otherwise be provided by a separate policy as required by this chapter.

14.16.130 Bond—When required, conditions, warranty.

A. Except as noted in this chapter, each applicant, before being issued a permit, shall provide the city with a cash deposit, escrow agreement or an irrevocable letter of credit in the amount set forth in the fee schedule adopted pursuant to section 14.16.040 to guarantee faithful performance of the work authorized by a permit granted pursuant to this chapter. The amount of the bond required may be increased or decreased at the discretion of the department whenever it appears that the amount and cost of the work to be performed, and not satisfactorily completed, may vary from the amount of bond otherwise required under this chapter. The form of the irrevocable letter of credit or bond and the entity issuing the same shall be subject to the approval of the city attorney.

B. Public utilities franchised by the city shall not be required to file a cash deposit, irrevocable letter of credit or corporate surety bond if such requirement is expressly waived or otherwise provided for in the franchise documents.

C. The bond required by this section shall be conditioned as follows:

1. That the permittee shall fully comply with the requirements of the city ordinances and regulations, specifications and standards promulgated by the city relative to work in the public way, and respond to the city in damages for failure to conform therewith

2. That after work is commenced, the permittee shall proceed with diligence and expedition and shall promptly complete such work and restore the public way to engineering design and construction standards, so as not to obstruct the public place or travel thereon more than is reasonably necessary;

3. That the permittee shall guarantee the materials and workmanship for a period of two years from completion of such work, with reasonable wear and tear excepted; and

4. That unless authorized by the department on the permit, all paving, resurfacing or

replacement of street facilities on major or collector streets shall be done in conformance with the regulations contained herein within three calendar days, and within seven calendar days from the time the excavation commences on all other streets, except as provided for during excavation in winter or during weather conditions which do not allow paving according to the engineering design and construction standards. In winter, a temporary patch must be provided. In all excavations, restoration or pavement surfaces shall be made immediately after backfilling is completed or concrete is cured. If work is expected to exceed the above duration, the permittee shall submit a detailed construction schedule for approval. The schedule will address means and methods to minimize traffic disruption and complete the construction as soon as reasonably possible.

14.16.140 Hold harmless agreement; limitations on city liability.

A. The permittee agrees to save the city, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under the permit. The issuance and acceptance of any permit under this chapter shall constitute such a hold harmless agreement by the permittee to this section.

B. This chapter shall neither be construed as imposing upon the city, its officers, employees and agents, any liability or responsibility for damages to any person injured by or by reason of the performance of any work within the public way, or under a permit issued pursuant to this chapter; nor shall the city, its officers, officials, employees, agents, volunteers or assigns thereof be deemed to have assumed any such liability or responsibility by reason of inspection authorized hereunder, the issuance of any permit, or the approval of any work.

14.16.150 Work without permit—Penalty.

A. It shall be unlawful for any person(s)

to do or cause to be done any work in the public way without first obtaining a permit.

B. In addition, a stop order may be issued by the city directed to any person or persons doing or causing any work to be done in the public way without a permit.

14.16.160 Failure to comply; default in performance.

A. Any permit may be revoked or suspended and a stop order issued by the department, after notice to the permittee for:

1. Violation of any condition of the permit, the bond, or of any provision of this chapter;
2. Violation of any provision of any other ordinance of the city or law relating to the work; or
3. Existence of any condition or the doing of any act which does constitute, may constitute, or cause a condition endangering life or property.

B. A suspension or revocation by the department, and a stop order, shall take effect immediately upon entry thereof by the department and notice to the person performing the work in the public way. Notice to the person performing the work shall be accomplished when the department has posted a stop work order at the location of the work and written notice has been mailed, return receipt requested, to the address indicated by the permittee on the permit.

C. Whenever the department finds that a default has occurred in the performance of any term or condition of the permit, written notice thereof may be given to the principal and to the surety on the bond, if there is a surety bond. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the department to be reasonably necessary for the completion of the work.

D. In the event that the surety (or principal), within a reasonable time following the giving of such notice (taking into consideration the exigencies of the situation, the nature

of the work, the requirements of public safety and for the protection of persons and property), fails either to commence and cause the required work to be performed with due diligence, or to indemnify the city for the cost of doing the work, as set forth in the notice, the city may perform the work, at the discretion of the department, with city forces or contract forces or both, and suit may be commenced by the city attorney against the contractor and bonding company, if necessary, and such other persons as may be liable, to recover the entire amount due to the city, including attorney fees, on account thereof. In the event that cash or irrevocable letter of credit has been deposited, the cost of performing the work may be charged against the amount deposited, and suit brought for the balance due, if any.

14.16.170 Failure to conform to design standards—Penalty.

A. For failure to conform to the engineering design and construction standards, the department may:

1. Suspend or revoke the permit;
2. Issue a stop order;
3. Order removal and replacement of faulty work;
4. Require an extended warranty period; and/or
5. Negotiate a cash settlement to be applied toward future maintenance costs.

14.16.180 Appeal of suspension, revocation, or stop order.

Any suspension, revocation or stop order by the department may be appealed by the permittee to the city council or its designee by filing a written notice of appeal within ten days of the action of the department. The city council or its designee may hear such appeal, if written request therefor be timely filed, as soon as practicable, and render their decision within a reasonable time following filing such appeal.

14.16.190 Tampering with traffic barricades.

It shall be unlawful for any person to maliciously or wantonly or without authorization and legal cause, extinguish, remove or diminish any light illuminating any barricade or excavation, or to tear down, remove or in any manner alter any rail, fence or barricade protecting any excavation or other construction site.

14.16.200 Conflict with governing provisions.

Should there be a conflict between the provisions of this chapter and the provisions of any other ordinance, agreement, franchise, or other document governing the excavation of a public way, the more restrictive provisions of the aforesaid documents shall apply.

14.16.210 Violation—Penalty.

Unless otherwise specified in this chapter, a violation of any provision of this chapter, or failure to comply with an order of suspension, revocation or stop work, shall be guilty of a Class B misdemeanor. Each day the violation exists shall be a separate offense. No criminal conviction shall excuse the person from otherwise complying with the provisions of this chapter.

14.16.220 Collection of expenses by lawsuit.

If collection by lawsuit of the city's expenses under this chapter becomes necessary, then the city shall be entitled to judgment for all expenses incurred in the restoration of the public way or other property, together with interest thereon and the city's court costs and reasonable attorney's fees. The city shall be entitled to execution on such judgment as provided by law.